

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:18 CV 322**

**IRENE WARRENT KENT**, *Administratrix* )  
*of the estate of Michele Quantele Smiley,* )

**Plaintiff,** )

**v.** )

**VAN DUNCAN**, *in his official capacity as* )  
*Sheriff of Buncombe County,* **WESTERN** )  
**SURETY COMPANY**, *as surety for* )  
*the Sheriff,* **CHARLES J. WILHELM,** )  
*individually and in his official capacity,* )  
**EDWARD F. PARKER**, *individually and* )  
*in his official capacity* **MEGHAN T.** )  
**RIDDLE**, *individually and in her official* )  
*capacity,* **TINA COX, LPN, SOUTHEAST** )  
**CORRECTIONAL MEDICAL GROUP,** )  
**PLLC, JOHN DOE # 1**, *in his official and* )  
*individual capacity,* **JOHN DOE # 2**, *in his* )  
*official and individual capacity,* **JOHN** )  
**DOE # 3**, *in his official and individual* )  
*capacity,* )

**Defendants.** )

**ORDER**

This matter is before the Court upon a request contained in the parties’ Certification and Report of Fed. R. Civ. P. 26(F) Conference and Discovery Plan (Doc. 20), which asks that the Court “order that all ESI materials related to the death of Michele Quantele Smiley and the events that occurred at the Buncombe County Detention Center prior to her death...be preserved by all parties and their employees and other agents...” Id. at 3.

While the Court appreciates the parties’ compliance with their obligation pursuant to Fed.

Rule Civ. Proc. 26(f)(3)(C) to discuss during their Initial Attorneys' Conference issues about the disclosure, discovery, or preservation of electronically stored information ("ESI"), to the extent a party (or parties) seeks the entry of an order governing the preservation of ESI, such a request should be made by way of motion in the usual course. See Local Civil Rule 7.1(a) ("Unless made during a hearing or trial, all motions must be written and filed as provided by LCvR 5.2.1 and must state with particularity the grounds for the motion and the relief or order sought").

The parties' request for the entry of a preservation order, as contained in the Certification and Report of Fed. R. Civ. P. 26(F) Conference and Discovery Plan (Doc. 20), is therefore **DENIED WITHOUT PREJUDICE.**

Signed: January 7, 2019

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf  
United States Magistrate Judge

